

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96813

January 27, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Oahu

Entry into Joint Use Agreement with Hilton Hawaiian Village LLC, Waikiki , Oahu, Tax Map Key Numbers: (1) 2-6-009:002 and 010, (1) 2-6-010-007 (por.), Public Right of Way as shown on Map 4 of Land Court Consolidation 64

STATUTE:

Sections 171-13, 55 Hawaii Revised Statutes, as amended.

APPLICANT:

Hilton Hawaiian Village LLC (Hilton), a domestic limited liability company, whose business and mailing address is 2005 Kalia Road, Honolulu, Hawaii, 96815.

LOCATION:

Portion of Government lands of Waikiki situated at Honolulu, Oahu, identified by Tax Map Key Numbers: (1) 2-6-009:002 and 010, (1) 2-6-010-007 (por.), Public Right of Way as shown on Map 4 of Land Court Consolidation 64.

AREA:

Lot 1-A-2:	143 square feet, more or less
Lot 2:	467 square feet, more or less
Lot 3:	293 square feet, more or less
Lot 4:	120 square feet, more or less
Lot 5:	2,202 square feet, more or less
Lot 5-C-2:	2,201 square feet, more or less
Lot 6B:	159 square feet, more or less

ITEM J-2

Public Right of Way: 3,225 square feet, more or less
RU-1: To be determined by a licensed land
surveyor.
RU-2: To be determined by a licensed land
surveyor.

ZONING:

State Land Use District:	Urban
City and County of Honolulu CZO	Public Precinct/Waikiki Special District

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: Yes _____ No X

CURRENT USE STATUS:

Public right of way.

CHARACTER OF USE:

Roadway purposes, pedestrian purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

RIGHT OF ENTRY TERM:

Perpetual.

ANNUAL RENT:

Gratis

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

The final environmental impact statement for the project
has been reviewed.

APPLICANT REQUIREMENTS:

Applicant shall be required to provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

Hilton is in the process of redeveloping its property, including, the construction of the Grand Waikikan, a 350-foot tower containing 355 timeshare/hotel units. Hilton, in connection with its redevelopment of its property, obtained a special management area use permit File No. 2002/SMA-19 (the "**SMA Permit**") and a planned development-resort permit from the City & County of Honolulu File No. 2002/SDD-33. The SMA Permit requires Hilton to widen and make improvements to the public roadway in Honolulu, Hawaii known as "Dewey Lane." Hilton has completed the design of the proposed improvements to Dewey Lane and is ready to proceed with the construction of the improvements to Dewey Lane.

The State owns the fee simple title to Lots 5-C-2, 6-B and the "Public Right of Way" (the "**Public Right of Way**"), all as shown on the maps attached hereto as **Attachments 1 and 2**. Lots 5-C-2, 6-B and the Public Right of Way are at times collectively herein referred to as the "**State Parcels**." The State Parcels are currently dedicated as a public right of way and constitute a portion of Dewey Lane. Lots 5-C-2 and 6-B, respectively, as shown on **Attachments 1 and 2**, are identical to Lots 5-C-2 and 6-B shown on Land Court Map 4 of Land Court Consolidation 64 ("**Land Court Map 4**"), authorized and approved by Order of the Land Court on January 21, 1964. Lots 5-C-2 and 6-B are lands described in Transfer Certificate of Title 12,829. The Public Right of Way shown on **Attachments 1 and 2** is the same as the "Public Right of Way" shown on Land Court Map 4.

The State has a perpetual easement (the "**Perpetual Easement**") over Lots 1-A-2, 2, 3, 4, and 5 (collectively the "**Easement Parcels**") as shown on **Attachments 1 and 2**. The State's Perpetual Easement rights over the Easement Parcels are for public right of way and public roadway as set forth in various documents including, without limitation, Transfer Certificate of Title 85,450 and Land Court Document No. 324984 dated December 23, 1963. Lots 1-A-2, 2, 3, 4 and 5, respectively, as shown on **Attachments 1 and 2**, are identical to Lots 1-A-2, 2, 3, 4, and 5, shown on Land Court Map 4 and are lands described in Transfer Certificate of Title 85,450.

Hilton is prepared to dedicate a portion of its land (the “**Hilton Roadway Easement**”) running along the Diamond Head (southeast) side of the Public Right of Way to be used in perpetuity, in combination with the State Parcels and the Perpetual Easement, for public roadway purposes and as part of a redesign and reconstruction of portions of Dewey Lane pursuant to a joint use agreement subject to Hilton’s reserved right to grant easements for utility purposes. The Hilton Roadway Easement consists of “**Easement RU-1**” and “**Easement RU-2**” as shown on **Attachments 1 and 2**. Easement RU-1 is a portion of Lot B (“**Lot B**”) as shown on Map 1 of Land Court Application No. 1549. Easement RU-2 is a portion of the 29,374 square foot lot (“**Lot X**”) shown on Map 1 of Land Court Application 1716. Lot B and Lot X are the lands described in Transfer Certificate of Title No. 550,224. A composite map showing the germane Land Court information and designating Easement RU-1 and RU-2 is attached to this Joint Use Agreement as **Attachment 3**.

Hilton seeks to utilize the State Parcels, the Perpetual Easement and the Hilton Roadway Easement on a combined basis for the reconstruction and relocation of portions of Dewey Lane (the “**Dewey Lane Improvements**”). The State Parcels, the Perpetual Easement and the Hilton Roadway Easement are sometimes collectively referred to herein as the “**Combined Lands**.”

There are two design alternatives for the Dewey Lane Improvements: **Attachments 1 & 4** collectively constitute “**Alternative 1**” and **Attachments 2 & 5** collectively constitute “**Alternative 2**”. The difference between Alternative 1 and Alternative 2 is that Alternative 1 contains a landscaping planter located on a portion of Lots 3, 4, and 5 of the Perpetual Easement, as well as over a portion of Lot 5-C-2 of the State Parcels. However, the State’s dominant Perpetual Easement over Lots 3, 4, and 5 is for public rights of way and public roadway purposes. Ownership of Lots 3, 4, and 5 are subject to the Condominium Declaration for the Ilikai Apartment Building. Lots 3, 4, and 5 are common elements of the Ilikai Apartment Building condominium, subject to the State’s dominant Perpetual Easement for public right of way and public roadway purposes. Therefore, the landscaping planter cannot be placed over Lots 3, 4, and 5 unless a joinder and consent is obtained from the Ilikai Association of Apartment Owners. Hilton is informed that the Dewey Lane Improvements can be completed in accordance with Alternative 2 without the joinder and consent of the Ilikai Association of Apartment Owners. Hilton has attempted, without success, to obtain the joinder and

consent of the Ilikai Association of Apartment Owners to Alternative 1 for the Dewey Lane Improvements.

Pursuant to the SMA Permit, Hilton intends to construct a **"Sidewalk"**, as defined in the Joint Use Agreement attached hereto as **Attachment 6**, at Hilton's sole cost and expense. Should the State and Hilton agree that it is desirable for any portion of "Sidewalk" to be located on a portion of the Combined Parcel, the Hilton requests that the State authorize Hilton to construct, install, maintain, and repair that portion of the Sidewalk on the Combined Parcels.

Hilton is requesting that the State and Hilton enter into a joint use agreement to reflect their mutual understandings, agreements and obligations relative to the integration and joint use of the Combined Lands for the construction and maintenance of the Dewey Lane Improvements (the **"Joint Use Agreement"**). The proposed form of the draft Joint Use Agreement is attached hereto as **Attachment 6**.

Under the Joint Use Agreement, (1) Hilton will grant a perpetual easement over Easement RU-1 and Easement RU-2 to the State for roadway purposes in order to widen and make certain improvements to Dewey Lane subject to Hilton's reserved right to grant easements for utility purposes; (2) the State will grant to Hilton authority to enter onto the Combined Parcels to construct and install the Dewey Lane improvements; and (3) the State will grant to Hilton a continuing right of entry to construct, install, maintain, repair and replace the Dewey Lane Improvements. As Hilton will be expending Eight Hundred Thousand Dollars (\$800,000) in constructing the Dewey Lane Improvements, which will improve the overall quality of the State's existing public right of way for the general public, it would be unreasonable for the State to request that Hilton pay any additional consideration for the Joint Use Agreement.

In the Joint Use Agreement, Hilton has agreed to indemnify the State from any claim or demand arising out of the any accident or incident occurring on or relating to the construction or use of the Dewey Lane Improvements. In addition, Hilton will take out a policy of commercial general liability insurance in an amount acceptable to the Chairperson.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The State Parcels are managed by Division of Boating and Ocean Recreation. Adjacent to Dewey Lane are lands managed by the Division of Boating and Ocean Recreation. Hilton has consulted with the staff and they are in favor of the requests.

The Ilikai Association of Apartment Owners have expressed concerns about the increased traffic on Dewey Lane.

RECOMMENDATION:

That the Board authorize the following:

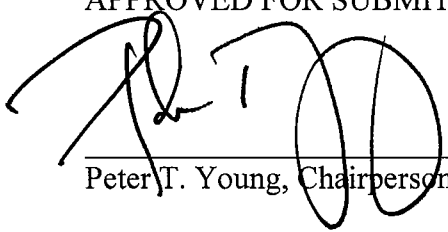
1. Authorize the State to enter into a Joint Use Agreement for the purposes cited above, which are by this reference incorporated herein. The Chairperson shall sign for the Board. Such authorization is subject to:
 - A. Approval as to form by the Department of the Attorney General;
 - B. Approval of the State Land Surveyor;
 - C. Approval of the roadway and the "Sidewalk" plans by the DLNR, or any agency designated by the DLNR, to review and approve of the roadway engineering plans;
 - D. Receipt of all required governmental approvals, permits, etc., by Hilton; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,


Richard K. Rice
Administrator

Attachments

APPROVED FOR SUBMITTAL:


Peter T. Young, Chairperson

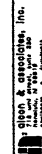
0 1 2 3 4 5
Centimeters



Hilton
Hawaiian Village

CONVEYED THE SERVING
PROPOSED DEWEY LANE
IMPROVEMENTS WITH
LANDSCAPING ON PORTIONS
OF LOT 3, LOT 4, LOT 5
AND LOT 6-C-2

HILTON HAWAIIAN VILLAGE
WAIKIKI, HONOLULU, HAWAII
TAX MAP KEY: 1-94-09:1, 2 & 10



Olsen & Associates, Inc.
Professional Engineers
1000 Kalia Road, Suite 100
Honolulu, HI 96813
Phone: (808) 943-1100
Fax: (808) 943-1101

Consultant

Project Number: 16 NOV. 2005

Date: 16 NOV. 2005

Revisions:

1

2

3

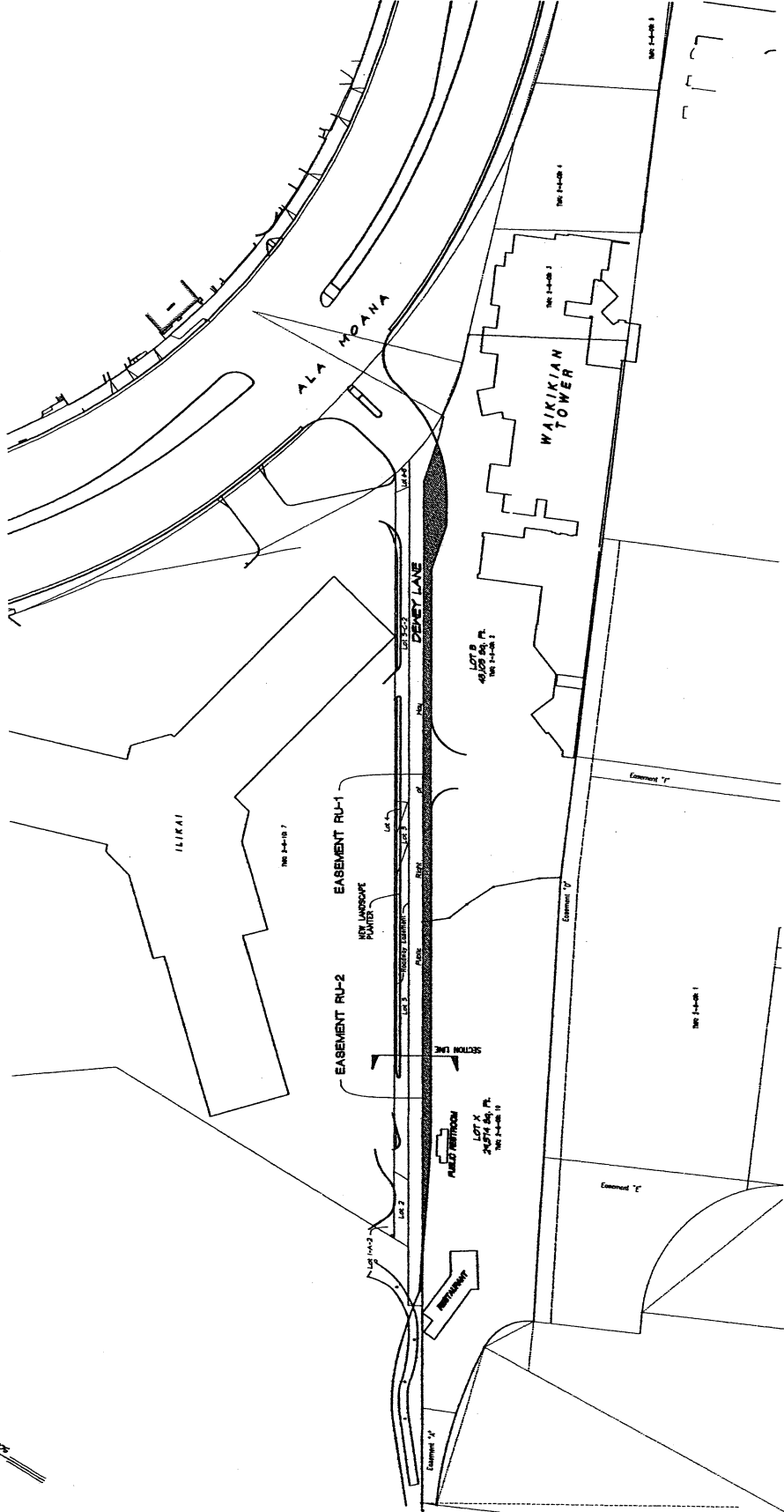
4

5

GRAPHIC SCALE

1" = 30'

The original size of this drawing is 30" x 42"



ATTACHMENT 1
Page 1 of 1

COMPOSITE MAP SHOWING PROPOSED DEWEY LANE IMPROVEMENTS WITH
LANDSCAPING ON PORTIONS OF LOT 3, LOT 4, LOT 5 AND LOT 6-C-2
SCALE: 1" = 30'

TRUE NORTH
SCALE: 1" = 30'

Centimeters 0 1 2 3 4 5

The printed size of this drawing is 30" x 42"

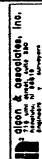
GRAPHIC SCALE
1" = 30'



Hilton
Hawaiian Village

COMPOSITE MAP SHOWING
PROPOSED DEWEY LANE
LANDSCAPING ON PORTIONS
OF LOT 5-C-2 ONLY

HILTON HAWAIIAN VILLAGE
WAKAIKI, HONOLULU, HAWAII
DATE MAP SET: 2-28-03 : 2 & 10



Client & Consultant, Inc.
1000 Kalia Road, Suite 200
Honolulu, HI 96813

Project Number
Date
Revision

16 NOV. 2005

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TRUE NORTH
SCALE 1" = 30 FT.

Land Court Consolidation #4
Lot 144

EASEMENT RU-1
(2284 Sq. Ft.)

EASEMENT RU-2
(971 Sq. Ft.)

Lot 2
24574 Sq. Ft.
(Net Area = 23405 Sq. Ft.)

Land Court Application 1716

Lot 8
48,008 Sq. Ft.
(Net Area = 43,021 Sq. Ft.)

Land Court Application 1549

R.P. 1033, L.C. No. 1715,
Apana I to Pooa



COMPOSITE MAP
DESIGNATION OF EASEMENT RU-1
FOR ACCESS AND UTILITY PURPOSES
AFFECTING LOT B
OF LAND COURT APPLICATION 1549
AS SHOWN ON MAP 1

AND
DESIGNATION OF EASEMENT RU-2
FOR ACCESS AND UTILITY PURPOSES
AFFECTING LAND COURT APPLICATION 1716
AS SHOWN ON MAP 1

AT KALIA, MAIKIKI, OAHU, HAWAII
TAXES: 2-6-05, 02 & 10
OWNER: HILTON HAWAIIAN VILLAGE LLC

ALCON & ASSOCIATES, INC.
710 KAI STREET, SUITE 210
HONOLULU, HI 96814

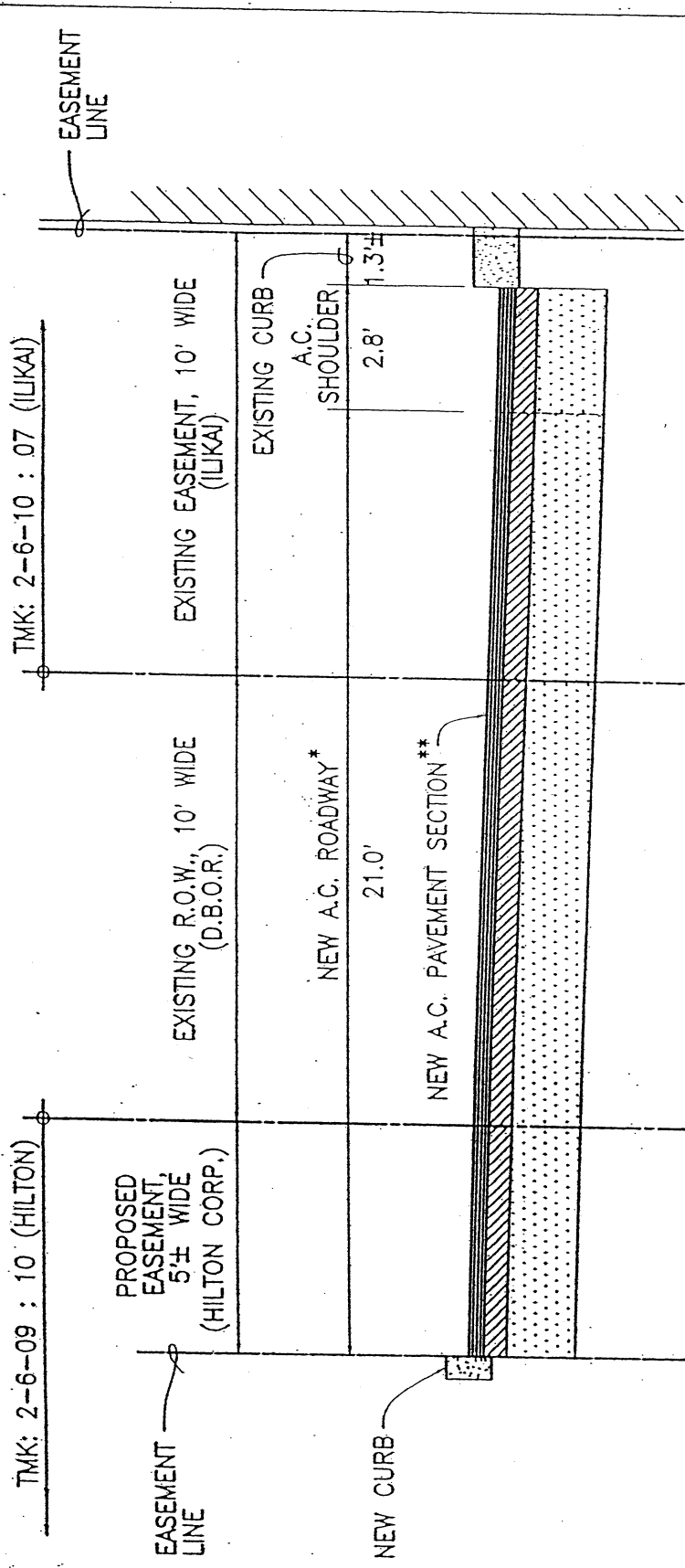
JUL 7 & 2005

TMK: 2-6-10 : 07 (ILIKAJ)



CROSS-SECTION (WITH LANDSCAPING ON PORTIONS OF THE PERPETUAL EASEMENT)

NOT TO SCALE

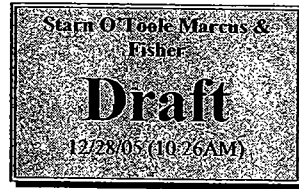


*ROADWAY WIDTH EXCEEDS MINIMUM WIDTH FOR CITY STANDARD ACCESS ROAD

**NEW CITY STANDARD A.C. PAVEMENT SECTION (4" A.C., 6" BASE COURSE, & 18" SUB-BASE).

CROSS-SECTION (WITHOUT LANDSCAPING ON PORTIONS OF THE PERPETUAL EASEMENT)

NOT TO SCALE



LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION: RETURN BY MAIL (X) PICK UP ()

Peter Starn, Esq.
Starn O'Toole Marcus & Fisher
737 Bishop Street
Mauka Tower, Suite 1740
Honolulu, Hawaii 96813
Telephone: (808) 537-6100

THIS DOCUMENT CONTAINS ____ pages

TITLE OF DOCUMENT:

**JOINT USE AGREEMENT
FOR THE DEWEY LANE IMPROVEMENTS**

PARTIES TO DOCUMENT:

STATE OF HAWAII, by its Board of Land and Natural Resources

HILTON HAWAIIAN VILLAGE, LLC, a Hawaii limited liability company, whose
mailing address is 2005 Kalia Road, Honolulu, Hawaii 96815-1999

TAX MAP KEY NOS.: (1) 2-6-010-007 (por.); (1) 2-6-009-002; (1) 2-6-009-010; (1) 2-6-010-
Roadway

**JOINT USE AGREEMENT
FOR THE DEWEY LANE IMPROVEMENTS**

THIS AGREEMENT is made effective as of the _____ day of _____, 200__, by and between the STATE OF HAWAII by its BOARD OF LAND AND NATURAL RESOURCES (the "State") and HILTON HAWAIIAN VILLAGE, LLC, a Hawaii limited liability company ("Hilton"), whose business and mailing address is 2005 Kalia Road, Honolulu, Hawaii 96815-1999.

BACKGROUND

The State owns the fee simple title to Lots 5-C-2, 6-B and the "Public Right of Way" (the "**Public Right of Way**"), all as shown on the maps attached to this Agreement as **Attachments 1 and 2**. Lots 5-C-2, 6-B and the Public Right of Way are at times collectively referred to in this document as the "**State Parcels**." The State Parcels are currently dedicated as a public right of way and constitute a portion of the public roadway in Honolulu, Hawaii known as "Dewey Lane." Lots 5-C-2 and 6-B, respectively, as shown on **Attachments 1 and 2**, are identical to Lots 5-C-2 and 6-B shown on Land Court Map 4 ("**Land Court Map 4**") of Land Court Consolidation 64, authorized and approved by Order of the Land Court on January 21, 1964. Lots 5-C-2 and 6-B are lands described in Transfer Certificate of Title 12,829. The Public Right of Way shown on **Attachments 1 and 2** is the same as the "Public Right of Way" shown on Land Court Map 4.

The State has a perpetual easement (the "**Perpetual Easement**") over Lots 1-A-2, 2, 3, 4, and 5 (collectively the "**Easement Parcels**") as shown on **Attachments 1 and 2**. The State's Perpetual Easement rights over the Easement Parcels are for public right of way and public roadway as set forth in various documents including, without limitation, Transfer Certificate of Title 85,450 and Land Court Document No. 324984 dated December 23, 1963. Lots 1-A-2, 2, 3, 4 and 5, respectively, as shown on **Attachments 1 and 2**, are identical to Lots 1-A-2, 2, 3, 4, and 5, shown on Land Court Map 4 and are lands described in Transfer Certificate of Title 85,450.

Hilton is prepared to dedicate a portion of its land (the "**Hilton Roadway Easement**") running along the Diamond Head (southeast) side of the Public Right of Way to be used in perpetuity, in combination with the State Parcels and the Perpetual Easement, for public roadway purposes and as part of a redesign and reconstruction of portions of Dewey Lane pursuant to this Joint Use Agreement subject to Hilton's reserved right to grant easements for utility purposes. The Hilton Roadway Easement consists of "**Easement RU-1**" and "**Easement RU-2**" as shown on **Attachments 1 and 2**. Easement RU-1 is a portion of Lot B ("**Lot B**") as shown on Map 1 of Land Court Application No. 1549. Easement RU-2 is a portion of the 29,374 square foot lot ("**Lot X**") shown on Map 1 of Land Court Application 1716. Lot B and Lot X are the lands described in Transfer Certificate of Title No. 550,224. A composite map showing the germane Land Court information and designating Easement RU-1 and RU-2 is attached to this Joint Use Agreement as **Attachment 3**.

The State and Hilton intend to utilize the State Parcels, the Perpetual Easement and the Hilton Roadway Easement on a combined basis for the reconstruction and relocation of portions of Dewey Lane, shown on **Attachments 1 and 2** (the "**Dewey Lane Improvements**"). The State Parcels, the Perpetual Easement and the Hilton Roadway Easement are sometimes collectively referred to in this Joint Use Agreement as the "**Combined Lands**."

There are two design alternatives the Dewey Lane Improvements: **Attachments 1 & 4** collectively constitute "**Alternative 1**" and **Attachments 2 & 5** collectively constitute "**Alternative 2**". The difference between Alternative 1 and Alternative 2 is that Alternative 1 contains a landscaping planter located on a portion of Lots 3, 4, and 5 of the Perpetual Easement, as well as over a portion of Lot 5-C-2 of the State Parcels. However, the State's dominant Perpetual Easement over Lots 3, 4, and 5 are for public rights of way and public roadway purposes. Ownership of Lots 3, 4, and 5 are subject to the Condominium Declaration for the Ilikai Apartment Building. The easement parcels are common elements of the Ilikai Apartment Building condominium, subject to the State's dominant Perpetual Easement for public right of way and public roadway purposes. Therefore, the landscaping planter cannot be placed over Lots 3, 4, and 5 unless a joinder and consent is obtained from the Ilikai Association of Apartment Owners. Hilton is informed that the Dewey Lane Improvements can be completed in accordance with Alternative 2 without the joinder and consent of the Ilikai Association of Apartment Owners. Hilton has attempted, without success, to obtain the joinder and consent of the Ilikai Association of Apartment Owners to Alternative 1 for the Dewey Lane Improvements.

The State and Hilton desire to enter into this Joint Use Agreement to reflect their mutual understandings, agreements and obligations relative to the integration and joint use of the Combined Lands for the construction and maintenance of the Dewey Lane Improvements.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the State and Hilton agree to the following:

1. **Grant of Perpetual Easement for Roadway Purposes.** Hilton hereby grants a perpetual easement over the Hilton Roadway Easement for public roadway purposes, in accordance with the terms of this Joint Use Agreement.

2. **Joint Use.** The State hereby agrees to allow Hilton to enter upon the State Parcels and the Perpetual Easement in order to install and construct the Dewey Lane Improvements, in accordance with the terms of this Joint Use Agreement.

3. Construction of the Dewey Lane Improvements.

(a) Payment of Expenses. Hilton agrees, at its sole cost and expense, to construct, repair and maintain the Dewey Lane Improvements on the Combined Lands, pursuant to the terms and provisions of this Joint Use Agreement.

(b) Design Alternatives. **Attachments 1 and 4** collectively constitute “**Alternative 1**” for the construction of the Dewey Lane Improvements. **Attachments 2 and 5** collectively constitute “**Alternative 2**” for the construction of the Dewey Lane Improvements. The sole difference between Alternative 1 and Alternative 2 is that Alternative 1 provides for a landscaping planter on portions of Lots 3, 4 and 5 of the Perpetual Easement, as well as over portions of Lot 5-C-2 of the State Parcels, while Alternative 2 provides for a landscape planter located only on portions of Lot 5-C-2 of the State Parcels (and without a landscape planter on portions of Lots 3, 4 and 5 of the Perpetual Easement. Both the State and Hilton believe that construction of the Dewey Lane Improvements, in accordance with Alternative 1, would be the most aesthetically pleasing version of the Dewey Lane Improvements.

However, the State’s dominant Perpetual Easement rights for public right of way and public roadway purposes over the Easement Parcels provides in the easement language that the easements can be used *only* for public right of way and public roadway purposes. Ownership of the Easement Parcels is subject to the Condominium Declaration for the Ilikai Apartment Building condominium. The Easement Parcels are common elements of the Ilikai Apartment Building condominium (subject to the State’s dominant Perpetual Easement for public right of way and public roadway purposes). The Easement Parcels, therefore, are under the control of the Association of Apartment Owners of the Ilikai Condominium. Hilton and the State are advised that the landscaping planter cannot be placed on Lots 3, 4 and 5 of the Easement Parcels without the joinder and consent of the Ilikai Association of Apartment Owners. However, Hilton and the State are advised that the Dewey Lane Improvements can be completed in accordance with Alternative 2 (*i.e.*, without landscaping on Lots 3, 4 and 5 of the Easement Parcels) without the joinder and consent of the Ilikai Association of Apartment Owners. Hilton has attempted, without success, to obtain the consent of the Ilikai Association of Apartment Owners to Alternative 1 for the Dewey Lane Improvements.

(c) Authority to Construct. Because the State and Hilton desire that the Dewey Lane Improvements proceed without further delay, the State and Hilton agree that Hilton is authorized entry onto the Combined Lands to construct the Dewey Lane Improvements, in accordance with Alternative 2; provided, however, that if Hilton is able to obtain the joinder and consent of the Ilikai Association of Apartment Owners to the construction of the Dewey Lane Improvements in accordance with Alternative 1, then, upon obtaining such consent, Hilton shall be authorized to construct, and shall construct, the Dewey Lane Improvements in accordance with Alternative 1.

(d) Sidewalk. Hilton acknowledges and agrees that before Hilton receives its Certificate of Occupancy for its “Waikikian Tower,” that is to be constructed adjacent to Dewey Lane, pursuant to Hilton’s Special Management Area Permit, Hilton shall

construct and maintain a sidewalk (the "Sidewalk") approximately 4 feet in width, which shall run roughly parallel to Dewey Lane, but over a "meandering course" so as to be aesthetically pleasing. The Sidewalk is to be built and maintained by Hilton at its sole cost and expense. The Sidewalk shall be open to the general public for pedestrian traffic between Ala Moana Boulevard and Holomoana Street. The plans and details for the Sidewalk shall be mutually agreed upon by Hilton and the State. The parties hereby acknowledge and agree that the Sidewalk contemplated herein does not interfere with that certain subterranean culvert easement reserved by the State of Hawaii pursuant to that certain Indenture and Deed from the Territory of Hawaii dated September 25, 1955 and filed in the Land Court of the State of Hawaii as Document Nos. 180267 & 180268, which easement affects that certain real property identified as the 29,374 sq. ft. Lot shown on Map 1 of Land Court Application ("LCA") No. 1716 and also known as TMK (1) 2-6-9-10 and described as Easement "A."

4. Right of Entry for the Dewey Lane Improvements. The State hereby grants Hilton a continuing Right of Entry upon the Combined Lands to install, construct, maintain, repair and replace the Dewey Lane Improvements.

5. Inspection. Hilton shall allow the State to enter upon and inspect the condition of the Dewey Lane Improvements. Hilton agrees to repair any defects found by the State within thirty (30) days after receipt of written notice from the State that such defects exist; provided that, if such defects are not susceptible to being corrected within thirty (30) days, with reasonable diligence, then Hilton shall be entitled to such time as is reasonably necessary to cure such defects, so long as Hilton diligently commences the correction of such defects within such thirty (30) day period and continues to diligently pursue completion of those corrections.

6. Indemnification. Hilton shall indemnify and hold the State harmless from any claim or demand by third persons for loss or damage, including claims for property damage, personal injury or wrongful death, arising out of any accident or incident occurring on or relating to the construction or use of the Dewey Lane Improvements. Hilton shall reimburse the State for any reasonable attorneys' fees and/or other costs incurred by the State in connection with such claims or demands.

7. Insurance.

Hilton shall procure and maintain, at its own cost and expense, in full force and effect, commercial general liability insurance, in an amount acceptable to the Chairperson of the Board of Land and Natural Resources with an insurance company or companies licensed to do business in the State of Hawaii. The policy or policies of insurance shall name the State of Hawaii as an additional insured. The insurance shall cover the Dewey Lane Improvements.

Prior to entry upon the State Parcels or the Perpetual Easement for purposes of construction, or within fifteen (15) business days after the date of this Joint Use Agreement, whichever is sooner, Hilton shall furnish the State with a certificate showing the insurance policy to be initially in force and furnish a like certificate upon each renewal of the policy. This insurance shall not be cancelled, limited in scope of coverage, or nonrenewed until sixty (60)

days after written notice of such cancellation, limitation or nonrenewal has been given to the State.

The State shall retain the right at any time to review the coverage, form, and amount of the insurance. If, in the opinion of the State, the insurance provisions of this Joint Use Agreement do not provide adequate protection for the State, the State may require Hilton to obtain insurance sufficient in coverage, form, and amount to provide adequate protection. The State's requirements shall be reasonable but shall be designed to assure protection for and against the kind and extent of risks which exist at the time a change in insurance is required. The State shall notify Hilton in writing of changes in the insurance requirements and Hilton shall deposit copies of the acceptable insurance policy or certificate thereof, with the State incorporating the changes within thirty (30) days after receipt of the notice.

The procuring of the required policy of insurance shall be construed neither to limit Hilton's liability under this Joint Use Agreement nor to release or relieve Hilton of the indemnification provisions and requirements of this Joint Use Agreement. Notwithstanding the policy of insurance, Hilton shall be obligated for the full and total amount of any damage, injury, or loss caused by Hilton's negligence or neglect connected with this Joint Use Agreement. It is agreed that any insurance maintained by the State will apply in excess of, and not contribute with, insurance provided by Hilton's policy.

8. Compliance with Laws. Hilton shall, at all times and at its own cost and expense, observe, perform and comply with all laws, ordinances, rules and regulations of all governmental authorities now or at any future time applicable to the Dewey Lane Improvements, including, without limiting the generality of the foregoing, the Americans with Disabilities Act of 1990 and all regulations promulgated with respect thereto, as well as any other laws, ordinances, rules and regulations imposing any requirements that the Dewey Lane Improvements be made accessible to persons with disabilities; and, indemnify the State of Hawaii against all actions, suits, damages and claims by whomsoever brought or made by reason of the nonobservance or nonperformance of any of said laws, ordinances, rules and regulations or of this covenant.

9. Approval. Neither Hilton, nor the State, shall unreasonably withhold approval whenever required pursuant to this Agreement.

10. Notices. Any notice required or permitted to be given hereunder shall be in writing, given by personal delivery or by first class mail, postage prepaid. Notice to Hilton shall be delivered or addressed to the address stated above. Notice to the State of Hawai'i shall be delivered or addressed to the Chairperson of the Board of Land and Natural Resources at 1151 Punchbowl Street, Room 130, Honolulu, Hawai'i 96813. Mailed notices shall be deemed given upon actual receipt, or two business days following deposit in the mail, postage prepaid, whichever occurs first. Either party may by notice to the other specify a different address for notice purposes.

11. Binding Effect. This Agreement shall be binding upon the parties, their successors and assigns.

12. Severability. The invalidity, illegality or unenforceability of any provision of this Agreement shall not affect the enforceability of any other provision of this Agreement, all of which shall remain in full force and effect.

13. Governing Law. This Agreement will be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of Hawaii.

14. Counterparts. This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original, but all of which, when taken together, shall constitute one Agreement. Duplicate, unexecuted counterpart pages may be discarded and the remaining pages assembled as one document.

15. Covenants Running With the Land. The obligations and rights under this Joint Use Agreement shall be deemed to be covenants running with the State Parcels, the Perpetual Easement, Lot B and Lot X.

16. Filing and/or Recordation. Either the State or Hilton may record this Joint Use Agreement on Transfer Certificate of Title No. 12,829, Transfer Certificate of Title No. 85,450 or Transfer Certificate of Title No. 550,224 in the Bureau of Conveyances of the State of Hawaii. Either party may replace oversized attachments to originals of this agreement with reduced or enlarged copies of the attachments, as necessary, to meet the recordation and/or filing requirements of either or both the Bureau of Conveyances of the State of Hawaii and/or the Land Court of the State of Hawaii.

17. Defined Terms. Terms defined within this Joint Use Agreement are indicated by initial capital letters and, for the purposes of this Joint Use Agreement, shall be deemed to have their meanings as defined for all purposes of this Joint Use Agreement. The same terms used without initial capital letters shall have the meanings ascribed to them in everyday common parlance.

IN WITNESS WHEREOF, the STATE OF HAWAII, by its Department of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and the parties hereto have caused these presents to be executed effective as of the day, month and year first written above.

APPROVED AS TO FORM:

STATE OF HAWAII

BY THE BOARD OF LAND AND NATURAL
RESOURCES

Deputy Attorney General

Date: _____

By: _____
Peter T. Young
Its Chairperson

HILTON HAWAIIAN VILLAGE LLC

By: _____
Name: _____
Its: _____

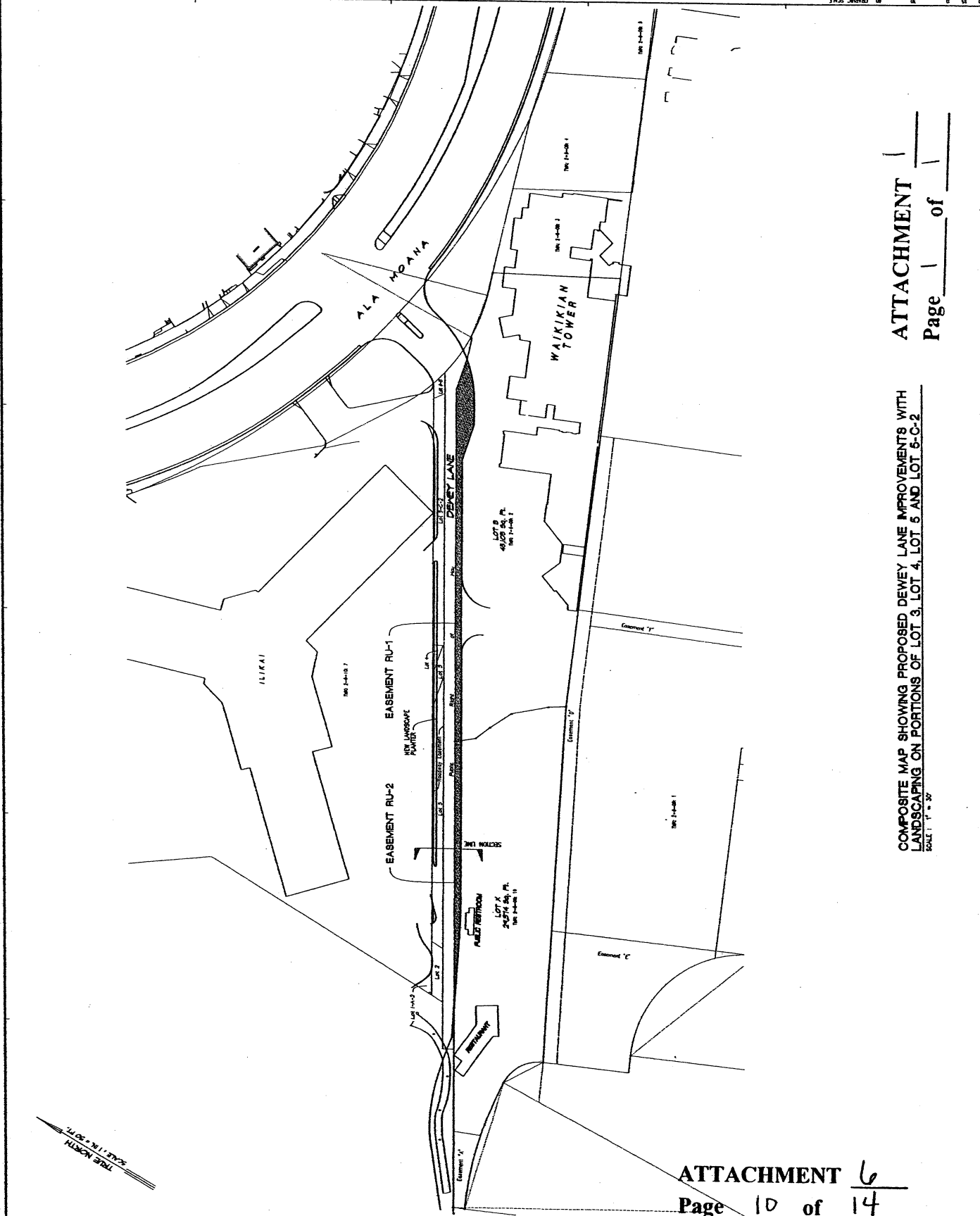
STATE OF HAWAII)
)
CITY AND COUNTY OF HONOLULU) SS.

On this _____ day of _____, 200_, before me appeared _____, to me personally known, who, being by me duly sworn, did say that he/she is the _____ of HILTON HAWAIIAN VILLAGE LLC, a Hawaii limited liability company, and who executed the foregoing instrument on behalf of said company, and acknowledged that he/she executed the same as his/her free act and deed on behalf of said company.

Printed Name
Notary Public, State of Hawaii

My commission expires: _____

0 1 2 3 4 5
Centimeters



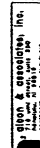
TRUE NORTH
SCALE 1" = 30'



Hilton
Hawaiian Village

COMPOSITE MAP SHOWING
PROPOSED DEWEY LANE
IMPROVEMENTS WITH
LANDSCAPING ON PORTIONS
OF LOT 3, LOT 4, LOT 5
AND LOT 6-C-2

HILTON HAWAIIAN VILLAGE
WAIKIKI, HONOLULU, HAWAII
THE MAP SET: 2-04-09 : 2.8.10



Hawaii Department of Land and Natural Resources

Consultant

Project Number

Date: 16 NOV 2005

Revisions:

1

2

3

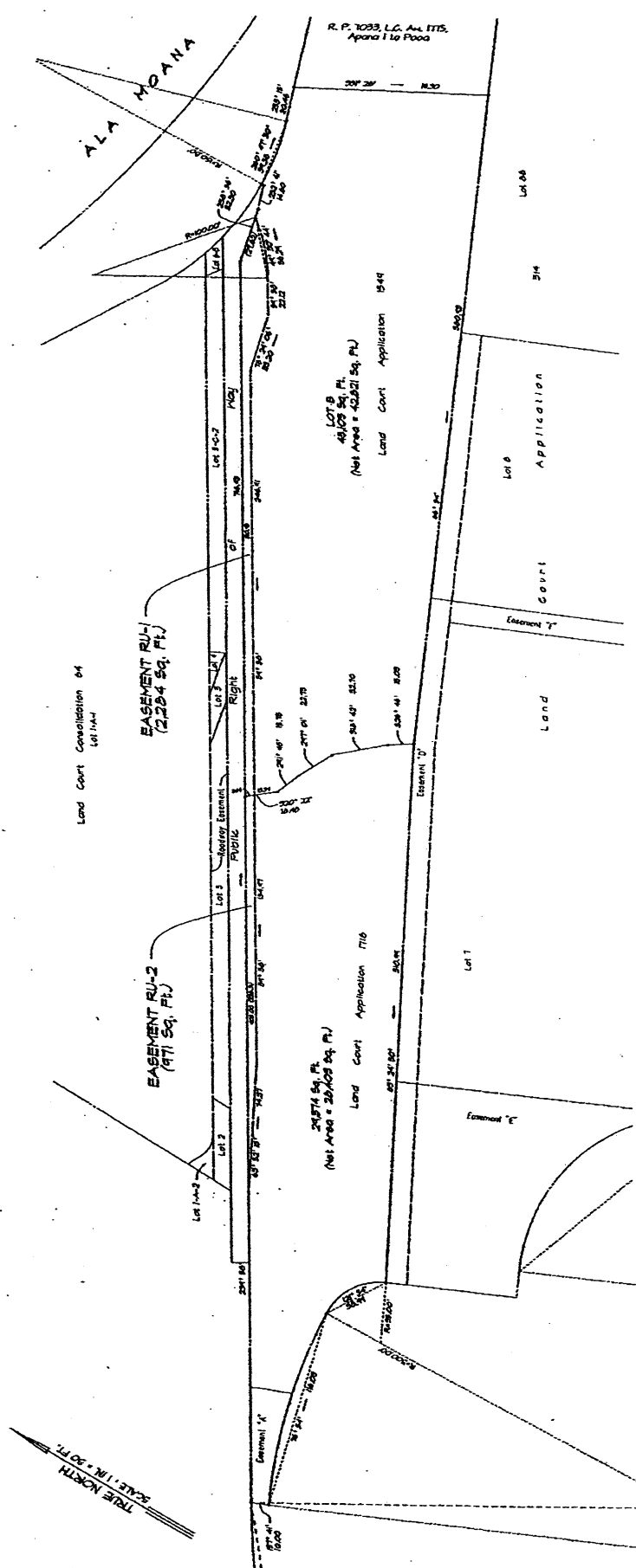
4

5

ATTACHMENT 1
Page 1 of 1

COMPOSITE MAP SHOWING PROPOSED DEWEY LANE IMPROVEMENTS WITH
LANDSCAPING ON PORTIONS OF LOT 3, LOT 4, LOT 5 AND LOT 6-C-2
SCALE 1" = 30'

ATTACHMENT 6
Page 10 of 14

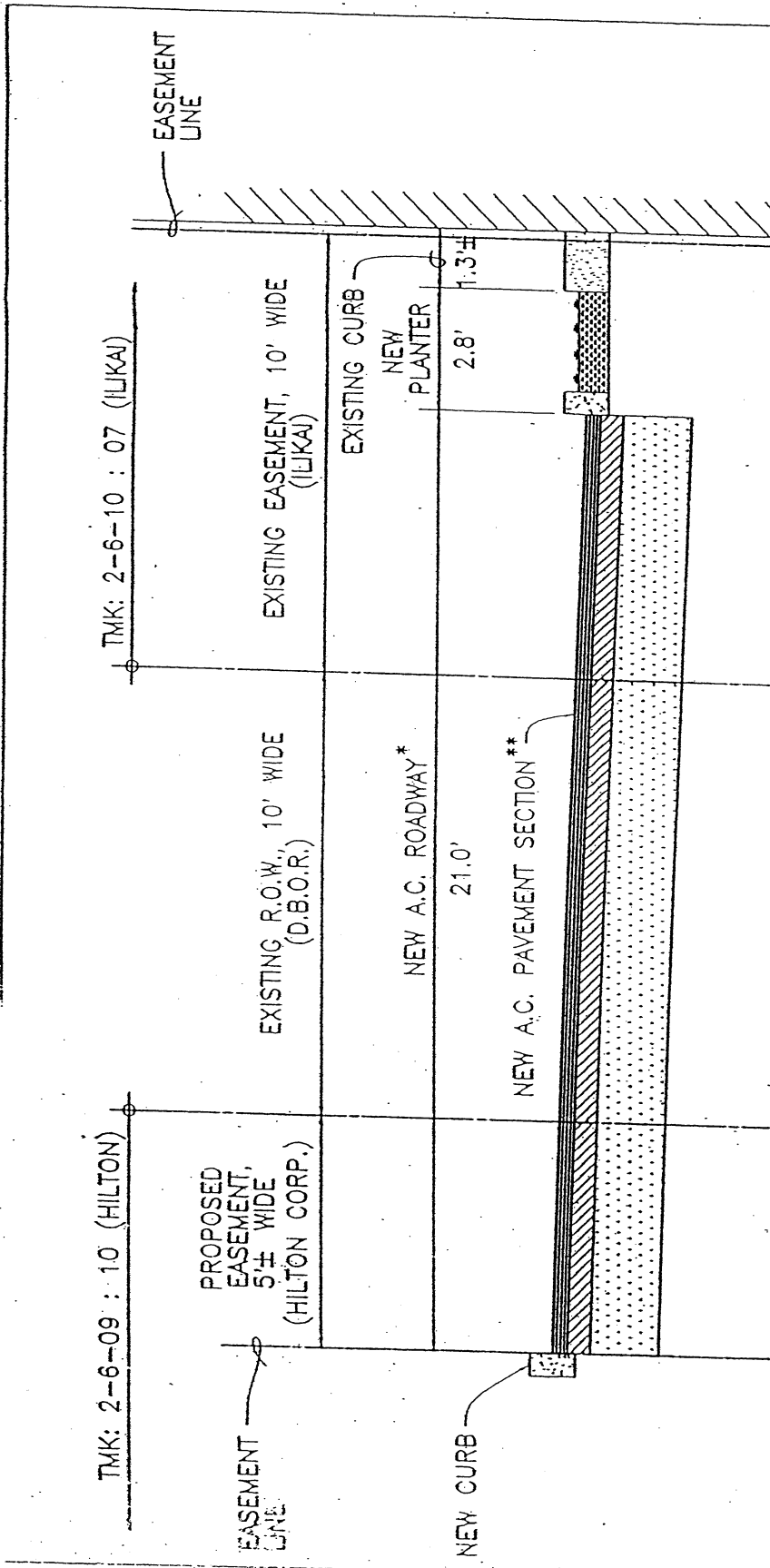


COMPOSITE MAP
 DESIGNATION OF EASEMENT RU-1
 FOR ACCESS AND UTILITY PURPOSES
 AFFECTING LOT B
 OF LAND COURT APPLICATION 1549
 AS SHOWN ON MAP 1
 AND
 DESIGNATION OF EASEMENT RU-2
 FOR ACCESS AND UTILITY PURPOSES
 AFFECTING LAND COURT APPLICATION 1716
 AS SHOWN ON MAP 1
 AT KALIA, MAIKIKI, OAHU, HAWAII
 TRACT 1, 2 - S - 09, 1, 02 & 10
 OWNER: HILTON HAWAIIAN VILLAGE LLC



JULY 8, 2003

ALCON & ASSOCIATES, INC.
 710 KAI STREET, SUITE 200
 HONOLULU, HI 96814

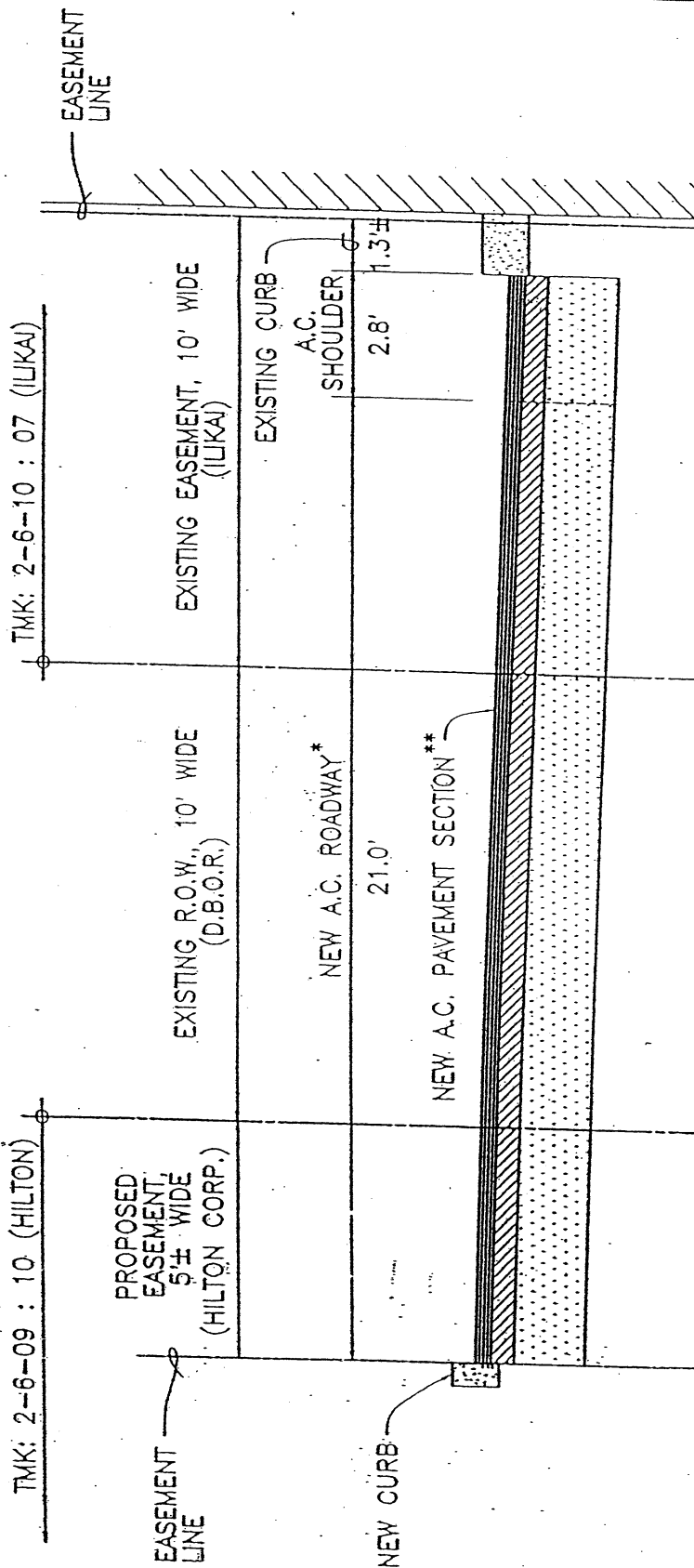


*ROADWAY WIDTH EXCEEDS MINIMUM WIDTH FOR CITY STANDARD ACCESS ROAD

**NEW CITY STANDARD A.C. PAVEMENT SECTION (4" A.C., 6" BASE COURSE, & 18" SUB-BASE).

CROSS-SECTION (WITH LANDSCAPING ON PORTIONS OF THE PERPETUAL EASEMENT)

NOT TO SCALE



*ROADWAY WIDTH EXCEEDS MINIMUM WIDTH FOR CITY STANDARD ACCESS ROAD

**NEW CITY STANDARD A.C. PAVEMENT SECTION (4" A.C., 6" BASE COURSE, & 18" SUB-BASE).

CROSS-SECTION (WITHOUT LANDSCAPING ON PORTIONS OF THE PERPETUAL EASEMENT)

NOT TO SCALE